

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE: METHYL TERTIARY BUTYL	:	Master File No. 1:00-1898
ETHER ("MTBE") PRODUCTS	:	MDL 1358 (SAS)
LIABILITY LITIGATION	:	M 21-88
	:	
	:	
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This document relates to:

*City of Fresno v. Chevron U.S.A., Inc.,
et al., 1:04-cv-04973*

**ERRATA FOR PLAINTIFF CITY OF FRESNO'S OPPOSITION TO DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT FOR LACK OF EVIDENCE PERTAINING
TO CAUSATION**

Plaintiff hereby submits a correction to its Opposition to Defendants' Motion for Summary Judgment for Lack of Evidence Pertaining to Causation filed April 12, 2013, in order to delete an inadvertent notation on page 20, last sentence, of its Opposition. The corrected page 20 is attached at Exhibit 1.

Respectfully submitted,

Dated: May 3, 2013

MILLER, AXLINE & SAWYER
A Professional Corporation

By: 

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Exhibit 1

Tesoro gasoline being delivered. (Rule 56.1 St. at ¶ 38.) In addition to this testimony, bills of lading and highway receipts provided by Red Triangle show Tesoro gasoline was delivered to the Red Triangle station. (Rule 56.1 St. at ¶ 38.) Since 100% of the gasoline supplied to the Red Triangle station came from the Fresno terminal, and Tesoro was a major supplier at the terminal, even without jobber and operator testimony a reasonable jury could conclude that Tesoro gasoline was delivered to the Red Triangle station during the relevant time period.

VIII. Valero Is Liable as a Refiner and Supplier of MTBE Gasoline

Valero's Motion claims (at 19), "Valero did not do business in California prior to March 16, 2000." The Valero Defendants' Objections and Responses to Plaintiff City of Fresno's First Set of Interrogatories to Defendants ("Responses to First Set of Interrogatories"), however, stated that the Valero Defendants supplied gasoline containing MTBE to Fresno customers prior to the year 2000. (Rule 56.1 St. at ¶ 45.) The Valero Defendants also admit to selling 2-3 million barrels of gasoline containing MTBE within Fresno County each year from 1997 to 2000, with a smaller amount sold in 1996. (Rule 56.1 St. at ¶ 45.) These interrogatory responses were served on behalf of Ultramar and two Valero entities, referenced collectively as the "Valero Defendants."

Some MTBE gasoline shipments and releases may have occurred before "1995 when Ultramar Inc. merged with Diamond Shamrock Corporation," or before "the December 31, 2001 merger of Ultramar Diamond Shamrock Corporation with and into Valero Energy Corporation." *Id.* Whether or not Valero gasoline was delivered to or released at the site, however, Valero has successor liability for Beacon's activities regarding each site.

PROOF OF SERVICE VIA LEXISNEXIS FILE AND SERVE

I, the undersigned, declare that I am, and was at the time of service of the paper(s) herein referred to, over the age of 18 years and not a party to this action. My business address is 1050 Fulton Avenue, Suite 100, Sacramento, CA 95825-4225.

On the date below, I served the following document on all counsel in *City of Fresno v. Chevron U.S.A., Inc., et al.*, Case No. 04 Civ 4973 (SAS), electronically through LexisNexis File & Serve:

**ERRATA FOR PLAINTIFF CITY OF FRESNO'S OPPOSITION TO
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT FOR LACK OF
EVIDENCE PERTAINING TO CAUSATION**

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

Executed on May 3, 2013, at Sacramento, California.


TONYA L. ZIMMERMAN